

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Gil DUDKIEWICZ et al.

Title: SYSTEM AND METHOD FOR CREATING AND  
EDITING A VIEWER PROFILE USED IN  
DETERMINING THE DESIRABILITY OF VIDEO  
PROGRAMMING EVENTS

Appl. No.: 09/992,414

Filing Date: 11/16/2001

Examiner: Jason P. Salce

Art Unit: 2623

Confirmation No.: 1945

**AMENDMENT TRANSMITTAL**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an amendment in the above-identified application.

☒ Small Entity status under 37 C.F.R. § 1.9 and § 1.27 has been established by a previous assertion of Small Entity status.

☐ Assertion of Small Entity status is enclosed.

☒ The fee required for additional claims is calculated below:

	Claims As Amended		Previously Paid For		Extra Claims Present		Rate		Additional Claims Fee
Total Claims:	16	-	35	=	0	x	\$50.00	=	\$0.00
Independent Claims:	2	-	4	=	0	x	\$200.00	=	\$0.00
First presentation of any Multiple Dependent Claims: +							\$360.00	=	\$0.00
CLAIMS FEE TOTAL								=	\$0.00

☐ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

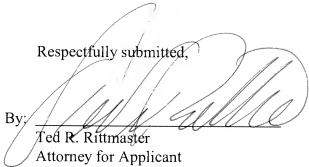
<input type="checkbox"/> Extension for response filed within the first month:	\$120.00	\$0.00
<input checked="" type="checkbox"/> Extension for response filed within the second month:	\$460.00	\$0.00
<input type="checkbox"/> Extension for response filed within the third month:	\$1,020.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fourth month:	\$1,590.00	\$0.00
<input type="checkbox"/> Extension for response filed within the fifth month:	\$2,160.00	\$0.00
EXTENSION FEE TOTAL:		\$0.00
<input type="checkbox"/> Statutory Disclaimer Fee under 37 C.F.R. 1.20(d):	\$130.00	\$0.00
CLAIMS, EXTENSION AND DISCLAIMER FEE TOTAL:		\$0.00
<input checked="" type="checkbox"/> Small Entity Fees Apply (subtract ½ of above):		\$230.00
Extension Fees Previously Paid:		\$0.00
TOTAL FEE:		(\$230.00)

If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date: February 20, 2008  
 FOLEY & LARDNER LLP  
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By:   
 Ted R. Rittmaster  
 Attorney for Applicant  
 Registration No. 32,933

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Gil G. DUDKIEWICZ et al.  
Title: SYSTEM AND METHOD FOR  
CREATING AND EDITING A  
VIEWER PROFILE USED IN  
DETERMINING THE  
DESIRABILITY OF VIDEO  
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Appl. No.: 09/992,414  
Filing Date: 11/16/2001  
Examiner: JASON P. SALCE  
Art Unit: 2623  
Confirmation 1945  
Number:

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**AMENDMENT AND REPLY UNDER 37 CFR 1.111**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This communication is responsive to the Final Office Action dated September 21, 2007, concerning the above-referenced patent application.

Applicant has enclosed with this amendment a Petition for Extension of Time to make this response timely.

**Amendments to the Claims** are reflected in the listing of claims which begins on page of this document.

**Remarks/Arguments** begin on page 6 of this document.

Please amend the application as follows:

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1.-11. (Cancelled).

12. (Currently Amended) A method for creating a viewer profile used for determining programming events of interest to a viewer, comprising:

receiving user navigation commands for navigation among predefined subject matter categories,

wherein the subject matter represented by each of said predefined categories is defined such that the predefined categories together form a hierarchy comprising at least a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category, and wherein said navigation is performed in accordance with said hierarchy, and wherein the categories and the sub-categories are distinct from the programming events;

receiving input from the user indicating that a predefined category of the hierarchy to which the user has navigated using said navigation commands is to be added to or deleted from a viewer profile that represents subject matter of interest to the viewer;

receiving qualified keyword input from the user associating a keyword supplied by the user with a specific category of the category hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when that subject matter is also described by the category associated with the qualified keyword; and

storing data representing a plurality of categories indicated by the user as representing subject matter of interest to the viewer and qualified keywords specified by the user in the viewer profile in a computer readable medium.

13. (Previously Presented) The method claimed in claim 12, further comprising receiving input from a user specifying a keyword representing subject matter of interest to the viewer.

14. (Previously Presented) The method claimed in claim 13, wherein said input specifying a keyword comprises a keyword preference score indicating an amount of viewer interest in subject matter represented by a specified keyword.

15. (Canceled)

16. (Previously Presented) The method claimed in claim 12, wherein said input indicating that a predefined category represents subject matter of interest to the viewer comprises a category preference score indicating an amount of viewer interest in subject matter represented by the category.

17. (Previously Presented) The method claimed in claim 12, further comprising receiving input from a user specifying a priority of said viewer profile relative to other viewer profiles when multiple viewer profiles are used for determining programming events of interest.

18. (Previously Presented) The method claimed in claim 12, further comprising receiving input from a user specifying a maximum number of alerts to be generated using said viewer profile within a given period of time.

19. (Canceled)

20. (Previously Presented) The method claimed in claim 12, further comprising receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest.

21. (Currently Amended) A programmable device for determining programming events of interest to a viewer, the device comprising a computer readable medium storing programming code to control the device to perform processing comprising:

receiving user navigation commands for navigation among predefined subject matter categories,

wherein the subject matter represented by each of said predefined categories is defined such that the predefined categories together form a hierarchy comprising at least

a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category, and wherein said navigation is performed in accordance with said hierarchy, and wherein the categories and the sub-categories are distinct from the programming events; and

wherein said navigation is performed in accordance with said hierarchy;

receiving input from the user indicating that a predefined category of the hierarchy to which the user has navigated using said navigation commands is to be added to or deleted from a viewer profile that represents subject matter of interest to the viewer;

receiving qualified keyword input from a user associating a keyword supplied by the user with a specific category of the category hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when that subject matter is also described by the category associated with the qualified keyword; and

storing data representing a plurality of categories indicated by the user as representing subject matter of interest to the viewer and qualified keywords specified by the user in the viewer profile in a computer readable medium.

22. (Previously Presented) The device claimed in claim 21, said processing further comprising receiving input from a user specifying a keyword representing subject matter of interest to the viewer.

23. (Previously Presented) The device claimed in claim 22, wherein said input specifying a keyword comprises a keyword preference score indicating an amount of viewer interest in subject matter represented by a specified keyword.

24. (Canceled)

25. (Previously Presented) The device claimed in claim 21, wherein said input indicating that a predefined category represents subject matter of interest to the viewer comprises a category preference score indicating an amount of viewer interest in subject matter represented by the category.

26. (Previously Presented) The device claimed in claim 21, said processing further comprising receiving input from a user specifying a priority of said viewer profile relative to other viewer profiles when multiple viewer profiles are used for determining programming events of interest.

27. (Previously Presented) The device claimed in claim 21, said processing further comprising receiving input from a user specifying a maximum number of alerts to be generated using said viewer profile within a given period of time.

28. (Canceled)

29. (Previously Presented) The device claimed in claim 21, said processing further comprising receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest.

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30.-35. (Canceled)

36. (New) The method claimed in claim 12, wherein each category and sub-category comprises an identifier that identifies the type of subject matter of at least one event.

37. (New) The method claimed in claim 12, wherein each category and sub-category comprises an identifier that identifies the type of subject matter of at least one event without being the at least one event.

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of Claims:**

Claims 12 and 21 have been amended. New claims 36 and 37 have been added. No new matter is added. Claims 12-14, 16-18, 20-23, 25-27 and 29 are pending. Claims 12-14, 16-18 and 20 are method claims and claims 21-23, 25-27 and 29 are device claims. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

**Response to 102 (e)Rejections:**

The independent Claims 12 and 21 and their dependent claims 13-14, 16-17, 22-23, and 25-26 have been rejected under 35 U. S.C. 102(e) as being anticipated by Ellis et al. (U.S. Patent No. 7,065,709).

With regard to the rejection of claim 12, this rejection is respectfully traversed.

Claim 12 as amended, recites a method for creating a viewer profile used for determining programming events of interest to a viewer, comprising:

receiving user navigation commands for navigation  
among predefined subject matter categories,  
wherein the subject matter represented by each of said  
predefined categories is defined such that the predefined  
categories together form a hierarchy comprising at least a set of  
top-level categories, respective sets of first level sub-categories  
each corresponding to and encompassed by a top level  
category, and respective sets of second level sub-categories  
each corresponding to and encompassed by a first level sub-  
category, and wherein said navigation is performed in



accordance with said hierarchy, and wherein the categories and the sub-categories are distinct from the programming events;

receiving input from the user indicating that a predefined category of the hierarchy to which the user has navigated using said navigation commands is to be added to or deleted from a viewer profile that represents subject matter of interest to the viewer;

receiving qualified keyword input from the user associating a keyword supplied by the user with a specific category of the category hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when that subject matter is also described by the category associated with the qualified keyword; and

storing data representing a plurality of categories indicated by the user as representing subject matter of interest to the viewer and qualified keywords specified by the user in the viewer profile in a computer readable medium. (underline added for emphasis.)

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Ellis neither teaches nor suggests a hierarchy comprising at least a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category, and wherein the categories and the sub-categories are distinct from the programming events.

Instead, as shown in Figure 13a and 13b, Ellis describes only one level of category and that category is the top level category that comprises movies, genre, game shows, baseball and action. There are no subcategories in Ellis.

The examiner lists items such as “Frasier” and “Friends” as first level subcategories. The applicant respectfully disagrees with this statement because neither of those items are any type of category. Instead, they are merely programming events that are listed under their top level (and only level) of categories. Unlike Ellis, claim 12 as amended recites that the categories and sub-categories are distinct from programming events.

Furthermore, there are no second level categories either. The examiner lists items such as “Strong Like” or Weak Like” as second level sub-categories. The applicant respectfully

disagrees with this statement too because neither of these item are any type of category either. Instead, they are just a type of likeness score that get assigned to each program. In fact as stated by the examiner on page 5, paragraph 4 of the office action, "strong like" indicates an amount of viewer interest in subject matter represented by the category. As such, therefore, the like/dislike indicators are not any kind of sub-category, and certainly they are not second level categories.

Therefore, claim 12 is patentable over Ellis.

New claims 36 and 37 are added to further protect aspects of the invention. Claims 36 and 37 are both dependent on claim 12, and as such, they are patentable over Ellis, at least for those reasons explained above with respect to claim 12.

The rejection of claims 13-14, and 16-17 is also respectfully traversed. These claims each are dependent on the amended claim 12, and as such, they are patentable over Ellis at least for the same reasons explained above with respect to claim 12.

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The rejection of claims 21-23, and 25-26 is also respectfully traversed. These claims each are device claims for the method claims 12-14 and 16-17 respectively. Furthermore the rejections for the device claims is similar to the rejections for their corresponding method claims. As such they are patentable over Ellis at least for the same reasons explained above with respect to claim 12.

Accordingly, the rejection of claims 12-14 and 16-17 and 21-23 and 25-26 under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US 7,065,709) is respectfully traversed.

**Response to 103 (a) Rejections:**

Claims 20 and 29 are rejected under 35 U. S. C. 103(a) as being unpatentable over Ellis et al (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827).

This rejection is respectfully traversed.

Claim 20 and 29 as dependent claims of claims 12 and 21 respectively, include:

“a hierarchy comprising at least a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category.”

As described above, Ellis does not include the three levels of hierarchical categories required by the claim. Accordingly claim 20 and 29 are distinguished from Ellis. Ellis (U.S. Patent Application Publication 2005/0251827) does not address the above noted distinctions of claims 20 and 29 over Ellis, either.

Instead in Ellis (U.S. Patent Application Publication 2005/0251827), as shown in Figure 12, the user can select programs by one of the subject categories such as movies, sports, and children. There are no sub-categories. Therefore, claims 20 and 29 are patentable over Ellis in view of Ellis.

Accordingly, the rejection of claims 20 and 29 under U.S.C. 103(a) as being unpatentable over Ellis et al (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827) is respectfully traversed.

Claims 18 and 27 are rejected under 35 U. S. C. 103(a) as being unpatentable over Ellis et al (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827) in further view of Knudson et al. (U.S. Patent Application Publication 2005/0204387).

This rejection is respectfully traversed.

Claim 18 and 27 as dependent claims of claims 12 and 21 respectively, include:

“a hierarchy comprising at least a set of top-level categories, respective sets of first level sub-categories each corresponding to and encompassed by a top level category, and respective

sets of second level sub-categories each corresponding to and encompassed by a first level sub-category.”

As described above, Ellis does not include the three levels of hierarchical categories recited in the claim. Accordingly claim 18 and 27 are distinguished from the patent of Ellis. The published patent applications of Ellis and Knudson do not address the above noted distinctions of claims 18 and 27 over Ellis either.

Instead as explained above, in Ellis (U.S. Patent Application Publication 2005/0251827) there are no subcategories. As shown in Figure 12 of Ellis, the user can select programs by one of the categories (of movies, sports, children) that are not divided further into second level and/or third level sub-categories.

Similarly in Knudson, there are no subcategories because as shown in Figures 9 and 17, the user can select programs by one of the categories such as movies, sports, and children that are not divided further into second level and/or third level sub-categories. Instead under each of these categories, names of the individual programs are listed with no further categorizations.

Accordingly, the rejection of claims 18 and 27 under U.S.C. 103(a) as being unpatentable over Ellis et al (U.S. Patent No. 7,065,709) in view of Ellis et al. (U.S. Patent Application Publication 2005/0251827) in further view of Knudson et al. (U.S. Patent Application Publication 2005/0204387) is respectfully traversed.

**Concluding Remarks:**

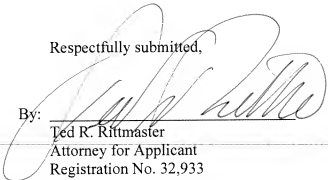
Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: February 19, 2008  
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By:   
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